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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,945	03/15/2005	Ercan Ferit Gigi	NL02 0857 US	2403

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P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

LERNER, MARTIN

ART UNIT	PAPER NUMBER
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2626

MAIL DATE	DELIVERY MODE
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10/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/527,945	Applicant(s) GIGI, ERCAN FERIT	
	Examiner MARTIN LERNER	Art Unit 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 to 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 to 7 and 9 to 11 is/are allowed.
- 6) ☒ Claim(s) 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 May 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because there are handwritten elements in Figure 1. Applicant has provided a marked-up version of Figure 1, indicating that it is "Prior Art", but has not provided a formal replacement sheet due to the presence of handwritten elements.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 8 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Independent claim 8 represents non-statutory subject matter because it does not clearly set forth that the computer program is recorded in a computer readable medium. The USPTO takes the position that a computer program, *per se*, does not fall within any of the statutory categories of invention, *i.e.* a process or manufacture, unless it is claimed and disclosed to be incorporated into a computer readable medium. Disembodied computer programs are rejected as non-statutory under 35 U.S.C. §101. Here, independent claim 8 sets forth "A computer program product, in particular digital storage medium". However, the limitation of "in particular digital storage medium" does

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not clearly recite that the computer program is recorded in a computer readable medium. The phrase “in particular” is open to a variety of interpretations, but does not definitely say that the computer program product is recorded in a computer readable medium. Thus, independent claim 8 represents a non-statutory disembodied computer program.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Independent claim 8 sets forth limitations directed to a preambular computer program product, in particular digital storage medium, but Applicant's Specification is not enabling for a process that performs the steps of determining, providing, randomly selecting, and performing that are incorporated into a computer program product that is recorded in a computer readable medium. The Specification was reviewed, but does not say anything about a computer program product or a digital storage medium. There is some disclosure of storing an original signal in a computer system. (Page 3, Lines 21 to 23) Similarly, a computer system for storing the original sound signal is disclosed.

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(Page 6, Lines 10 to 12: Figure 5) However, in neither of these instances is the entire process of a series of steps disclosed to be embodied in a computer program or stored on a digital storage medium. Accordingly, the preambular limitation of a computer program product in a digital storage medium is not enabled by Applicant's Specification.

Allowable Subject Matter

6. Claims 1 to 7 and 9 to 11 are allowed.
7. Claim 8 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. §101 and 35 U.S.C. §112, 1st ¶, set forth in this Office Action.
8. The following is a statement of reasons for the indication of allowable subject matter:

Concerning independent claims 1, 8, 9, and 11 the prior art of record does not disclose or reasonably suggest windowing that is determined based on a type of sound signal for pitch modification. Applicant's Specification, Page 4, Lines 12 to 22, discloses that a voiced hybrid sound may be windowed with a cosine function, and an unvoiced sound signal may be windowed with a sine function. The prior art of record does not disclose or reasonably suggest a windowing method that is determined based on a type of sound signal in combination with randomly selecting pitch bell locations and overlap-add for changing a pitch of a synthesized sound signal.

Response to Arguments

9. Applicant's arguments filed 01 October 2008 have been considered but are moot in view of the new grounds of rejection.

The finality of the rejection is withdrawn. New grounds of rejection are presented for independent claim 8 under 35 U.S.C. §101 and 35 U.S.C. §112, 1st ¶.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin Lerner whose telephone number is (571) 272-7608. The examiner can normally be reached on 8:30 AM to 6:00 PM Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Hudspeth can be reached on (571) 272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Martin Lerner/
Primary Examiner
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October 7, 2008